

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

THE ASSOCIATION OF AUTOMOTIVE)
AFTERMARKET DISTRIBUTORS, INC.,)
an Illinois not-for-profit)
corporation,)
Plaintiff,) Civil Action No. 1:12-cv-323
v.)
UNIVERSAL AUTO PARTS PLUS ,)
an Ohio corporation;)
Defendant.)
Judge: Sandra S. Beckwith

FINAL CONSENT JUDGMENT

Defendant Universal Auto Parts Plus, through its counsel, hereby stipulates to entry of this Final Consent Judgment, as follows:

1. Plaintiff, the Association of Automotive Aftermarket Distributors, Inc., d/b/a PARTS PLUS, is an Illinois not-for-profit corporation having its principal place of business in Germantown, Tennessee.

2. Defendant, Universal Auto Parts Plus, is a business located at 4320 Hamilton Trenton Road, Hamilton, Ohio 45011.

3. This is an action for trademark infringement, false designation of origin, dilution, unfair competition and passing off, and deceptive trade practices in violation of the laws of the United States and the State of Ohio.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), and 15 U.S.C. § 1121(a) over the claims brought pursuant to the Lanham Act, 15 U.S.C. § 1121, *et seq.* Jurisdiction over the claims brought under state common law is conferred

pursuant to 28 U.S.C. §§ 1338(b) and 1367(a). This Court has personal jurisdiction over Defendant. Venue is proper pursuant to 28 U.S.C. § 1391(b) in that the Defendant resides in this judicial district.

5. Plaintiff is the owner of the trademark PARTS PLUS for distributorship services in the automotive parts field (Reg. No. 1,151,983), and has used the PARTS PLUS trademark to identify the source of automotive parts distributorship services since at least 1977. Plaintiff owns a number of other federal trademark registrations of PARTS PLUS for a large variety of automotive parts.

6. Commencing at a time long subsequent to the first use of the PARTS PLUS marks by Plaintiff, Defendant began using the mark UNIVERSAL AUTO PARTS PLUS in connection with its sale and distribution of automotive repair parts from its Ohio facility. Both Plaintiff's licensees and sublicensees, and Defendant, sell automotive replacement products under their respective marks to professional installers of said parts and to do-it-yourselfers. This use was without permission or authorization from Plaintiff, and Defendant declined to acquiesce to requests to cease and desist from use of UNIVERSAL AUTO PARTS PLUS.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. Defendant Universal Auto Parts Plus, its owners, officers, employees, agents, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or participation with or under authority of or from them are hereby permanently enjoined and restrained from:

a. any use of the designations "PARTS PLUS" and "Universal Auto Parts Plus," and of any other colorable imitation of Plaintiff's mark, to include company name, logo,

phone directory listings, delivery vehicles, physical signage, internet domain names, websites, phone answering services or advertising materials, in connection with the provision of distribution of automotive parts, automotive parts sales, automotive parts acquisitions, automotive parts inventorying, automotive parts searching, automotive service, automotive salvage and disassembly, or the like;

b. representing or passing off by words or implication that it and/or any company with which it is involved is affiliated or associated with, or sponsored or authorized by, Plaintiff and/or its associated entities; and

c. advertising and/or promotion of their goods and/or services under the name "PARTS PLUS" and "Universal Auto Parts Plus", and any similar name, and all use of the mark "PARTS PLUS" in any form as a trademark, service mark, or trade name.

2. On or before January 31, 2013, Defendant will:

a. Remove and destroy all signage, both interior and exterior, bearing the designation "PARTS PLUS" and "Universal Auto Parts Plus."

b. Amend its corporate name with the Ohio Secretary of State to remove "Parts Plus" from its corporate name.

c. Disable and assign to Plaintiff the domain name (URL) universalautopartsplus.com, as well as any other URL's incorporating the "PARTS PLUS" mark, at its sole expense.

3. Defendant will pay to Plaintiff the amount of \$12,000.00 at a rate of \$500.00 per month in compensation for Plaintiff's attorneys' fees and costs. Payment shall be made to:

The Association of Automotive Aftermarket Distributors, Inc.
3500 Fountainside Drive, Suite 210
Germantown, Tennessee 38138
Attn: Michael Lambert

4. Defendant shall submit to counsel for Plaintiff, an affidavit from an officer or director stating all steps taken to comply with this Final Consent Judgment.

5. Defendant shall pay to the Plaintiff the sum of \$20,000.00 in liquidated damages should Defendant fail to comply with the terms of this Final Consent Judgment.

IT IS SO ORDERED.

Dated this 5th day of December 2012.


UNITED STATES DISTRICT JUDGE